IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1333 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/08/2004 made in WP NO : 14106 OF 2004on the file of the High Court.)

Between:

1 Pamuri Balreddy, S/o Venkata Subba Reddy, Hindu,aged 35 years, R/o Rajupalem village, Kalasapadu Mandal, Kadapa District.
2 Shaik Nagurvalli, S/o. Nanne Sab, Muslim, aged 45 years, Rajupalem Village, Kalasapadu mandal, Kadapa District.

..... PETITIONER(S)

AND

1 The District Collector (PTS), Kadapa.
2 The Divisional Panchayat Officer, Kadapa.
3 The Mandal Parishat Development Officer, Kalasapadu Mandal, Kadapa.
4 The Rajupalem Gram Panchayat, rep. by its Sarpanch, Ramakrishna Reddy, Brahmanapalli, Kalasapadu Mandal, Kadapa District.

.....RESPONDENT(S)

Counsel for the Appellants:MR.Ravi Shankar Jandhyala

Counsel for the Respondent Nos.1 to 3: GP FOR Panchayat Raj & Rural Development

Counsel for the respondent No.4: Dammlapati Srinivas

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Appeal was filed without the order passed by the learned single judge dismissing the appellant's writ petition and we permitted the appeal to be taken up without the copy of the order. Considering the urgency in the matter, we granted status-quo. Learned counsel for the respondents had assured us that the letter of M.L.A., Badvel referred to in order dated 14.7.2004 passed by the Collector, Kadapa will be procured and brought to the Court.

We have heard the learned counsel for the appellants and also gone through the record. Appellant No.1 is the former Sarpanch of the Rajupalem Gram Panchayat of Kalasapadu Mandal and he questioned the action of the Collector, Kadapa in permitting the present Sarpanch, Rajupalem Gram Panchayat for continuing the construction of Gram Panchayat Office at a place where construction work had been commenced and approximately Rs. 51,000/- had been incurred in the said construction. This order was passed on 14.7.2004. In the proceedings dated 26.5.2004, the Collector gave reference to Janma Bhoomi Grama Sabha Resolution No. 5, dated 10.1.2003; letter dated 20.2.2004 of the District Medical and Health Officer, Kadapa and the letter of Mandal Parishad Development Officer, Kalasapadu, dated 8.10.2003 and directed the Sarpanch to take necessary action for construction of Gram Panchayt office building only in the permitted site following the rules and regulations. Permitted site according to the said letter was located in Survey No.361, i.e, on the North side of P.H.C. Centre and also South side of the U.P. School at Rajupalem, which was observed to be convenient, accessible to all categories of people and suitable in public health point of view. However, the Sarpanch had commenced construction work pursuant to Resolution No. 5, dated 10.1.2003 within

the same Survey No.361 on the North side of the Public Health Centre. The purport of the order dated 26.5.2004 was to commence construction of building at a new site in the same survey number towards Southern side of the U.P. School at Rajupalem. Pursuant to the letter dated 26.5.2004, further construction was not carried out and in the meanwhile on 31.5.2004, D.C. Govinda Reddy, M.L.A., Badvel addressed a letter to the District Collector with a request to personally visit the site in the interest of public and also to keep the proceedings dated 26.5.2004 pending. The letter reads as under:

> "I invite your kind attention to the reference cited in which permission is accorded to construct Rajupalem Grama Panchayat Office building in Survey No.361 in the village Rajupalem.
>
> In this connection, I would like to bring to your notice that the Sarpanch of the Panchayat based on the resolution of the Panchayat started construction of the office in the same survey number 361 on the north side of the village which is convenient to the people of three villages of the Panchayat namely, Rajupalem, Brahmanapalli and Malluvaripalli. An amount of Rs.51,000/- (Rupees Fifty One Thousand Only) was incurred for construction of the building.
>
> At that juncture, due to political differences in the village between the Manual President and others, the Mandal President belonging to the then ruling party pressurized the District Administration and hence the building construction was stopped since last two years. I have personally visited the site and found that construction of the building in between PHC and UP school is not desirable and the convenient place is to the north of the village where the construction was already started by incurring an expenditure of Rs.51,000/-.
>
> I also request you to personally visit site for deciding the location of the site in the interest of the public and to request you to keep the proceeding pending till the District Collector decides the site by personal inspection."

On receipt of this letter on 1.6.2004, Collector directed the file to be circulated to him and ultimately order was passed by him on 14.7.2004. Feeling aggrieved by the same, the appellants filed Writ Petition No. 14106 of 2004.

Learned single judge declined to interfere in such like matters as to the location of the building of Panchayat Office that whether it should be to the Northern side or Southern side on the ground that in such like policy matters hardly there would be

any ground for interference by the Courts.

We cannot lose sight of the fact that appellant No.1 is a former Sarpanch of the Gram Panchayat concerned and of the fact that the present Sarpanch pursuant to Resolution of Janma Bhoomi Grama Sabha had already commenced construction of the Panchayat building towards North side of PHC and had also incurred expenditure of Rs.51,000/- and the construction had come up upto the plinth level. In case, the submissions of behalf of the appellants-petitioners are accepted, it would not only cause loss to the public exchequer, but would also be an unnecessary waste of money and time. Unless it is shown that a mala fide or arbitrary order has been passed by the Collector, this Court cannot interfere in such like matters. Further, when the attention of the Collector was drawn to the relevant factors, he visited the spot and passed the order on 14.7.2004. Thus, we find no ground to interfere with the order of the learned single judge. The appeal is accordingly dismissed. No costs.

DEVINDER GUPTA,CJ

DATE: 20th August, 2004

C.V. RAMULU,J

pnb

To

1. The District Collector (PTS), Kadapa.
2. The Divisional Panchayat Officer, Kadapa.
3. The Mandal Parishad Development Officer, Kalasapadu Mandal, Kadapa.
4. Two C.Cs. to the Government Pleader for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad.

5. The Sarpanch, Rajupalem Gram Panchayat, Brahmanapalli, Kalasapadu Mandal, Kadapa District.

6. Two C.D. copies